



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Master

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Text of Legislative File 18-038-O

ORDINANCE AMENDING THE REQUIREMENTS FOR PROJECT LABOR AGREEMENTS, AMENDING SECTIONS 2-25, 2-26 AND 2-29 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 2-25 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-25. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

Apprentice-trainee. An employee who is working under a training program which is approved

either by the U.S. department of labor bureau of apprenticeship and training or the Minnesota director of voluntary apprenticeship.

Basic hourly rate. The hourly wage paid to any employee.

City. The city of Duluth.

City investment threshold. Means for purposes of Section 2-26 \$2,000 or more and for purposes of Section 2-29 \$150,000 or more.

Contractor or contractors. An entity or entities of whatever tier engaged in on-site construction work on a covered project.

Covered project. Means a project owned by the city for which the city has a contract for construction services equal to or in excess of the city investment threshold, or a project in which the city has an ongoing proprietary interest because it provides financial support equal to or in excess of the city investment threshold through a grant, subgrant, loan, loan guarantee or tax credit to pay for some or all of the costs of a project, including financial support having its source in tax increment proceeds, loan guarantees, state of Minnesota funds, community development block grant funds, HOME investment partnership funds, and other federal or state programs including low income tax credits, federal or state historic tax credits, federal new market tax credits, or similar funding or tax credit programs.

Fringe benefits. Employer contribution for health and welfare benefits, vacation benefits, pension benefits, and all other economic benefits other than the basic hourly rate.

Laborer, mechanic. All persons utilized, employed or working on a project who are doing work usually done by mechanics and laborers, including proprietors, partners, and members of cooperatives.

Prevailing wage rate. The basic hourly rate plus fringe benefits prevailing in the city of Duluth as determined by the ~~state of Minnesota, department of labor and industry~~ United States secretary of labor pursuant to the Davis-Bacon Act, as amended; provided that whenever employer and employee organizations employing and representing a majority of a class of workers in a particular industry within the city jointly certify that the prevailing basic hourly rate plus fringe benefits of such workers differs from the amount determined by the secretary of labor, the certified rate shall be considered to be the prevailing wage rate for such class of workers in that industry.

Project. Erection, construction, demolition, painting, remodeling or repairing of any ~~public building, highway, sidewalk, bridge, water or gas line, sewer and sewage treatment facility or other public construction work performed under contract with the city.~~

Union or unions. A labor organization or organizations recognized under the National Labor Relations Act as representing a class or classes of employees providing work to a covered project.

Section 2. That Section 2-26 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-26. Wage rates and hours for city projects.

(a) Any ~~covered project contract which provides for a project of estimated total cost of over \$2,000~~ shall contain a stipulation that no laborer, mechanic or apprentice-trainee employed directly upon the project work site by the contractor or any subcontractor shall be permitted or required to work at a rate of pay less than the prevailing wage rate; nor shall any such employee be permitted or required to work more than eight hours in any work day or 40 hours in any work week unless he is paid at a rate of at least 1-1/2 times the basic hourly rate for all hours in excess of eight per day or 40 per week and unless he receives fringe benefits that are at least equal to those in the prevailing wage rate; provided that whenever employer and employee organizations employing and representing a majority of a class of workers in a particular industry within the city jointly certify that the maximum number of hours that such persons may work under existing labor agreements before overtime wages must be paid differs from the hours specified in this paragraph, the maximum number of hours specified in such labor agreements

shall be substituted for those specified above in applying the provisions of this paragraph to such workers;

(b) All contracts for city covered projects shall have applicable schedules of prevailing wage rates set forth in the contract. Schedules of applicable prevailing wage rates shall be present on all project job sites and shall either be posted on the site or be on the person of any supervisor in charge of the job site;

(c) Employees on covered projects shall be paid at least weekly. Fringe benefits shall be paid either in cash or to an employee benefit plan that has been approved by the U.S. department of labor;

(d) Any contractor or subcontractor working on a covered project shall furnish the city with a copy of all payrolls relating to the project. Such payroll reports shall be submitted weekly on U.S. department of labor standard forms or their equivalent to the employee of the city in charge of supervising contract performance;

(e) No contractor or subcontractor working on a covered project shall evade or attempt to evade the provisions of this Section through the use of nonrecognized training programs. The only employees involved in training programs that shall be allowed to work on projects covered by this Section shall be apprentice-trainees as defined by this Article;

(f) Any person violating the provisions of this Section shall be guilty of a misdemeanor with each day of violation constituting a separate offense. In addition, if the prevailing wage rate is not paid to employees working on a project, the city of Duluth may withhold contract payments to the contractor until such deficiencies are corrected;

(g) This Section shall not apply to ~~contracts for projects where the total estimated cost of the project is less than \$2,000~~ projects that do not meet the definition of a covered project; nor to materialmen who do no more than deliver materials to the work site, except that this Section shall apply to employees who deliver asphalt, concrete or mineral aggregate such as sand, gravel or stone where such material is incorporated into the project by depositing the material substantially in place, either directly or through spreaders, from the transporting vehicle.

Section 3. That Section 2-29 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-29. Project labor agreements.

(a) Policy. The city council finds that when the city involves itself as an owner, lessor, guarantor, pledger, investor or contributor to a development project or other project that involves construction services, the city has an ongoing proprietary interest in the project and therefore has a direct interest in its financial performance. Therefore, the city, as an investor or purchaser of construction services has a compelling interest in ensuring that city construction contracts proceed in a timely, cost-effective manner with the highest degree of quality and with minimal delays and disruptions. City contracts should be performed with the highest degree of safety for workers and the public, and in a manner that provides meaningful training and employment opportunities for residents. Throughout the state and country, public and private construction owners regularly utilize and require project labor agreements for billions of dollars worth of construction each year. St. Louis county is successfully using project labor agreements on county construction contracts. Project labor agreements that establish uniform terms and conditions of employment for the contractors and other parties working on a project have been shown to provide an effective mechanism for construction management because they allow project owners to:

(1) Predict their labor costs and requirements, and, therefore, more accurately estimate actual total project costs;

(2) Promote cost-efficient, timely and safe construction project delivery, by providing access to a reliable supply of properly trained and skilled construction craft personnel for all aspects of the project;

(3) Assure greater productivity and workmanship quality from construction craft

personnel, thereby yielding high quality, cost-efficient projects, while also reducing maintenance and repair costs over the life of the project;

(4) Integrate work schedules and standardize work rules for the project to provide a well-coordinated, efficiently functioning construction worksite that will minimize delays, promote quality, and maintain project safety; and

(5) Assure that construction will proceed without interruption from staffing shortages, high employee turnover, safety incidents, and labor disputes by providing reliable project staffing, contractual guarantees against work stoppages and mutually binding procedures for resolving disputes;

(b) Project labor agreement required. A project labor agreement, in substantially the form adopted by resolution of the council from time to time and kept by the city clerk as a public document, shall be required to be used on each covered city construction project, ~~as project is defined in Section 2-25, with a total project cost of \$150,000 or more.~~ Any project labor agreement entered into by the city shall be made binding on all contractors and subcontractors working on the project. The city shall implement the project labor agreement by requiring adherence to the agreement in the bid specifications in all relevant bid documents. No contractor shall be required to be or become a party to a collective bargaining agreement on any other construction project in order to qualify to work under a project labor agreement implemented for a ~~particular city~~ covered project.

(c) Community benefits provisions. All project labor agreements shall contain community benefits provisions which require contractors and unions to take all necessary and good faith efforts to meet goals for involving women or persons who are defined as socially disadvantaged in 13 CFR 124.103 in the construction of the covered project, particularly relating to developing life-long careers and increasing the community's capacity to provide the appropriate workforce for future projects. If goals are not met the contractor shall provide evidence satisfactory to the city purchasing agent, in the exercise of the purchasing agent's discretion, that despite contractor's best efforts, contractor in good faith was not able to meet the community benefit provisions.

(d) Contract requirements.

(1) Nothing to the contrary withstanding in Chapter 41 of the Code, the bid specifications for a project shall include a requirement that the contractor agree to include and implement the community benefit provisions of subsection (c) above in the contract therefore. The failure of the contractor to so agree shall render the bid of such contractor non-conforming and such bid shall be rejected.

(2) All agreements for subsidized projects shall include the requirement that contractors performing services under such subsidy agreements shall agree to the provisions of subsection (b) and (c) above. The failure to include such requirements in such agreement or the failure of the party contracting for the subsidized project to include such requirements in any contract with any contractor performing work on any subsidized project shall render the agreement between the city and such contracting party void.

(e) Exception-fund source prohibition. The requirement for a project labor agreement shall not apply to projects or subsidized projects where the source of some or all of the funds to fund such project or subsidized project is the federal government and said government prohibits the city from requiring a project labor agreement as a condition of providing the subject funds.

Section 4. That this ordinance shall take effect and be in force 30 days after its passage and publication.

STATEMENT OF PURPOSE: The purpose of this ordinance is to modify the code provisions applying to the requirements for project labor agreements ("PLAs."). The Definitions in Sec. 2-25 have been reordered in alphabetical order. This is part of the package including modifying the

form of the PLA itself, modifying the city's business subsidy criteria and amending DEDA's enabling resolution requiring DEDA to implement PLA requirements and wages and hours requirements in its agreements.